Chapter 11: Paying the Costs of Juvenile Proceedings

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In this chapter. . .

This chapter contains discussion of the sources of funds used to pay the costs associated with court proceedings involving juveniles. After a brief discussion of the county, state, and federal funds that may be used to pay such costs, the chapter discusses in more detail juvenile and parental reimbursement of the costs of care and attorney fees. For liability for payment of expenses under the Interstate Compact on Juveniles, see MCL 3.701, Article VIII, and MCL 3.705.

> **Note on court rules.** On February 4, 2003, the Michigan Supreme Court approved extensive amendments to Subchapter 5.900 of the Michigan Court Rules, which govern delinquency, minor PPO, designated case, and "traditional waiver" proceedings, and to Subchapter 6.900, which govern "automatic waiver" proceedings. Subchapter 5.900 was renumbered Subchapter 3.900. These rule amendments are effective May 1, 2003. Although not in effect on the publication date of this benchbook, the rule amendments have been included here. For the rules in effect prior to May 1, 2003, see the first edition of this benchbook, *Juvenile Justice Benchbook:Delinquency & Criminal Proceedings* (MJI, 1998).

11.1 County, State, and Federal Sources of Funding

This section provides an overview of sources of county, state, and federal funding for the costs associated with juvenile proceedings. The following summary of sources is intended to orient the reader to the more specific discussion that follows.

- Intake, detention, probation, foster care, diagnostic evaluation and treatment, prevention, and diversion costs are paid out of a county's Child Care Fund, with reimbursement by the Family Independence Agency (FIA) of 50% of eligible expenditures. MCL 400.117a(1)(c).

- If a juvenile is placed on court-supervised probation under MCL 712A.18(1)(b) or with a private agency or institution under MCL 712A.18(1)(d), the costs of care and service are paid from the county's Child Care Fund. *Wayne Co v Michigan,* 202 Mich App 530, 535–36 (1993).

- If a juvenile is referred to the FIA for placement and supervision under MCL 400.55(h), the costs of care and service are paid out of the county's Child Care Fund, with reimbursement by the FIA of 50% of eligible expenditures. MCL 400.117a(1)(c).

- If a juvenile is committed to the FIA under MCL 712A.18(1)(e) (delinquency or designated case proceedings) or MCL 769.1(3) or (4) ("automatic waiver" proceedings), the county must reimburse the FIA for 50% of the costs of care and service. MCL 803.305(1).

- If a juvenile and the placement ordered by the court are eligible for federal Aid to Dependent Children—Foster Care under Title IV-E of the Social Security Act, 42 USC 670 et seq., the county, state, and federal governments may share the costs of care and service, depending upon the placement ordered.

Except as otherwise provided by law, expenses incurred in cases under the Juvenile Code are to be paid out of a county's general fund. MCL 712A.25(1) provides that expenses incurred in cases under the Juvenile Code are to be paid out of a county's general fund except as otherwise provided by law. MCL 712A.25(1) states as follows:

> "(1) Except as otherwise provided by law, expenses incurred in carrying out this chapter shall be paid upon the court's order by the county treasurer from the county's general fund."

Although MCL 712A.25(1) requires a county to use general fund money to pay for expenses incurred in proceedings under the Juvenile Code, the county may use its Child Care Fund to pay, and may be reimbursed by the FIA for a portion of, such expenses, depending upon the placement ordered by the court and other factors.

County Child Care Fund. The Child Care Fund consists of funds appropriated by a county for "foster care" and "juvenile justice services." MCL 400.117c(1) and (4). The Child Care Fund must be used to pay the costs of providing "foster care" for juveniles under the jurisdiction of the Family Division or a court of general criminal jurisdiction. MCL 400.117c(2). "'Foster care' means placement of a child outside the child's parental home by and under the supervision of a child placing agency, the court, the [FIA], or the department of community health." MCL 400.115f(k). The Child Care Fund may be used to pay for "juvenile justice services" pursuant to MCL 400.117a(4)(a) and 400.117c(4). "Juvenile justice service" is defined in MCL 400.117a(1)(c) as follows:

*For more detail, see 1979 AC, R 400.2001 et seq., and the "Handbook for the Child Care Fund," available through the FIA.

> "(c) 'Juvenile justice service' means a service, exclusive of judicial functions, provided by a county for juveniles who are within or likely to come within the court's jurisdiction under [MCL 712A.2], or within the jurisdiction of the court of general criminal jurisdiction under [MCL 600.606], if that court commits the juvenile to a county or court juvenile facility under [MCL 764.27a].* A service includes intake, detention, detention alternatives, probation, foster care, diagnostic evaluation and treatment, shelter care, or any other service approved by the office or county juvenile agency, as applicable, including preventive, diversionary, or protective care services. A juvenile justice service approved by the office or county juvenile agency must meet all applicable state and local government licensing standards.

*See Section 3.10 for a discussion of detention of juveniles in court or county juvenile facilities pending arraignment and trial in "automatic waiver" proceedings.

The FIA reimburses 50% of eligible annual expenditures from a county's Child Care Fund. MCL 400.117a(4)(a).

In *In re Hoskins,* unpublished opinion per curiam of the Court of Appeals, November 6, 2001 (Docket No. 225381), the juvenile was made a court ward and referred to FIA for placement and care pursuant to MCL 400.55(h). The juvenile's FIA caseworker filed a motion in the trial court indicating that the juvenile had been diagnosed as mentally ill by the community mental health department and requesting the court to order the community mental health department to pay for the juvenile's "continuing and past mental health treatment." The trial court ordered the community mental health department to take over the costs of the juvenile's treatment *and* to reimburse the county for the costs of the juvenile's care. The Court of Appeals reversed, finding that the trial court erred by ordering the community mental health department to pay the costs of the juvenile's care. The Court noted that a community mental health program may be required to provide mental health services to individuals, with the county paying 10% and the state 90% of the costs of such services. However, the Court held that the trial court's referral of the juvenile to FIA for placement and care

obligated the county to pay 100% of the costs of such care, with possible reimbursement by FIA. The Court stated:

> "Nowhere in the Revised Probate Code, MCL 700.1 *et seq.,* or the Social Welfare Code, MCL 400.1 *et seq.,* has the Legislature given the counties permission to transfer this obligation, with the exception of the fifty-percent reimbursement. Moreover, while the state is obligated to provide mental health services for individuals needing them, . . . the Mental Health Code does not obligate the Department of Community Health or CMH programs to provide foster care—even for minors diagnosed with mental illness. . . . That responsibility lies with the counties. MCL 712A.25. Under the statutes, once a family court deems a juvenile to be a court or state ward, the county bears the financial burden of that ward's foster care, at least fifty percent. Thus, the lower court committed plain error in transferring financial obligation for Hoskins' care to [the community mental health department]."

County Juvenile Agency. The Child Care Fund is used only by counties that are not "county juvenile agencies." "County juvenile agency" is defined in the "County Juvenile Act," MCL 45.621 et seq. MCL 400.117a(1)(a). Because the act applies only to a county that is eligible for transfer of federal Title IV-E funds under a 1997 waiver, the act only applies to Wayne County. Thus, this discussion pertains only to Wayne County.

MCL 712A.25(2) states as follows:

> "(2) A county that is a county juvenile agency shall pay expenses for county juvenile agency services incurred in carrying out this chapter from the block grant distributed under [MCL 400.117a], and other funds made available for that purpose and is not obligated under subsection (1) to pay for juvenile justice services other than county juvenile agency services as required by [MCL 400.117a]. As used in this subsection, 'county juvenile agency services' and 'juvenile justice service' mean those terms as defined in [MCL 400.117a]."

Wayne County receives a block grant from the FIA pursuant to MCL 400.117a(4)(b) and 400.117g. As noted above, Wayne County is responsible for the costs of "county juvenile agency services," which are defined in MCL 400.117a(1)(b) as follows:

> "(b) 'County juvenile agency services' means all juvenile justice services for a juvenile who is within the court's jurisdiction under [MCL 712A.2(a) or (d)], or within the jurisdiction of the court of general jurisdiction under [MCL 600.606], if that court commits the juvenile to a county or court juvenile facility under [MCL 764.27a*]. If a juvenile who comes within the court's jurisdiction under [MCL 712A.2(a) or (d)], is at that time subject to a court order in connection with a proceeding for which the court acquired jurisdiction under section [MCL 712A.2(b) or (c) (child abuse or neglect proceedings and waiver of court jurisdiction in divorce proceedings)], juvenile justice services provided to the juvenile before the court enters an order in the subsequent proceeding are not county juvenile agency services, except for juvenile justice services related to detention."

*See Section 3.10 for a discussion of detention of juveniles in court or county juvenile facilities pending arraignment and trial in "automatic waiver" proceedings.

The FIA is responsible for "juvenile justice services" other than "county juvenile agency services." MCL 400.117a(5).

Public wards. If a juvenile is committed to the FIA under MCL 712A.18(1)(e) or MCL 769.1(3) or (4), the FIA pays the entire cost of a juvenile's care and service, but the county is charged back 50% of that cost. MCL 803.305(1). To recover 50% of the costs, the FIA may either bill the county or offset the amount due in the FIA's reimbursement of the county's Child Care Fund. MCL 400.117a(4)(a).

In Wayne County, juveniles are committed to the county juvenile agency. "A county that is a county juvenile agency is liable for the entire cost of a public ward's care while he or she is committed to the county juvenile agency." MCL 803.305(3).

Transfer of a juvenile delinquency or designated case proceeding to a juvenile's county of residence. In juvenile delinquency proceedings, if any juvenile is brought before the Family Division in a county other than the county in which he or she resides, the court may, before a hearing and with the consent of the Family Division judge of the juvenile's county of residence, enter an order transferring jurisdiction over the matter to the court of the county of residence. MCL 712A.2(d) adds that if the juvenile's county of residence is a "county juvenile agency" and satisfactory proof of residency is furnished to the court in that county, consent to transfer the case is not required. MCL 712A.2(d), MCR 3.926(B) and 3.926(E). MCR 3.926(C) provides that when disposition is ordered by a Family Division other than the Family Division in a county where the juvenile resides, the court ordering disposition is responsible for any costs incurred in connection with the order unless:

- the court in the county where the juvenile resides agrees to pay such dispositional costs, or
- the juvenile is made a public ward and the county of residence withholds consent to transfer of the case.

MCR 3.926(C) applies to both delinquency and designated case proceedings.

MCL 803.305(1) states that "[t]he county of residence of the public ward is liable to the state, rather than the county from which the youth was committed, if the . . . family division of circuit court of the county of residence withheld consent to a transfer of proceedings under [MCL 712A.2(d)], as determined by the [FIA]."

Aid to Dependent Children—Foster Care. This source of funds may be used for court or public wards who meet eligibility requirements and are in eligible placements. Michigan is one of a few states that have used Title IV-E funds to pay for out-of-home placements for some juveniles who have been adjudicated delinquent. Title IV-E of the Social Security Act, 42 USC 670 et seq., sets forth requirements for distributing federal funds to states' child protection and foster care systems. Pursuant to 42 USC 672(a), to be eligible for funding under Title IV-E, the following conditions must be met:

- the juvenile must be a United States citizen or qualified alien;
- the juvenile must have been continuously eligible for former Aid to Dependent Children funds in the home from which the juvenile was removed;
- jurisdiction must be established under the Juvenile Code, not the Code of Criminal Procedure;
- FIA must be responsible for the juvenile's placement and care;
- the court must make the findings outlined below; and
- the juvenile must be in a licensed foster home, a private non-profit child-caring institution, or a public institution having a security classification of "low" or "community-based."*

*In Michigan, state-operated community justice centers and the Arbor Heights facility meet these requirements for public institutions.

In order to *retain* Title IV-E eligibility for placement, the court is required to make a finding that reasonable efforts to achieve permanency are being made in juvenile justice cases every 12 months (just as in child protective cases). Conducting permanency planning hearings (where these findings are usually made) are a requirement of the State Plan process, however, and are not related to Title IV-E eligibility for placement funds. Michigan law requires permanency planning hearings in child protective cases but does not require them in juvenile justice cases. In order for FIA to comply with the general requirements of ASFA and retain their Title IV-E administrative funding, they are required to insure that permanency planning hearings are

conducted every 12 months. These hearings must be on the record and cannot be "paper" reviews. Procedures for permanency planning hearings in juvenile justice cases need to be discussed by courts and local county FIA offices.

Court requirements include the following:

- **In the very first court order which authorizes removal, the court must make and document a judicial determination that remaining in the home is "contrary to the child's welfare or best interest."** All judicial determinations must specify on what basis the determination is being made. Check boxes alone are not adequate. If the court does not make this determination in its first order following the child's removal from home, the child will be ineligible for Title IV-E funding for the remainder of that "placement episode." A placement episode begins when a child goes from his or her own or the home of a legal guardian to an out-of-home living arrangement, and a placement episode ends when the child is placed beck in his or her own home or the home of a legal guardian. Amended or *Nunc pro tunc* orders* are not permitted. If the court issues an ex-parte order removing the child, the "contrary to the child's welfare" finding must appear in that order; otherwise, it must appear in the first order following removal, which will usually be the order following the preliminary hearing.

- **The determination that remaining in the home is "contrary to the child's welfare or best interest" must be based upon parental failure rather than the juvenile's behavior.** A general determination that removal is in "the public's best interest" is insufficient, as is a general reference in the removal order to the allegations contained in the petition. Some suggested language for removal orders is as follows: "It is contrary to the welfare of the child to remain in the home because:

  — the parents have failed to adequately supervise the minor child regarding the petition that has been filed alleging _____.

  — the parents have failed to control the minor child's behavior resulting in the petition that has been filed alleging _____.

  — the home environment is unfit due to alcohol and/or substance abuse in the family home by _____, mother/father/custodian.

  — the home environment is unfit due to criminality in the home as evidenced by _____."

*Amended orders include provisions that should have been included previously in an order but were omitted. *Nunc pro tunc* orders include provisions in orders that were addressed at a previous proceeding but were omitted from the order. In other words, *nunc pro tunc* orders correct the record. *Nunc pro tunc* orders are also effective retroactively.

- **Within 60 days of the child's removal from home, the court must find that "the agency has made reasonable efforts to prevent removal from the home." The court may also find that reasonable efforts are not required if aggravated circumstances apply which generally are the conditions set forth in MCL 722.638 of the Michigan Child Protection Law.** If the determination regarding reasonable efforts to prevent removal is not made in the time required, the child will be ineligible for Title IV-E funding for the remainder of that placement episode. *Nunc pro tunc* orders are not permitted. In order to meet this requirement, it is suggested that courts make this determination at the preliminary hearing. According to FIA, if the agency determines that efforts to prevent removal or reunify a family are not reasonable and the court agrees, the court can make a finding that not making efforts is reasonable. However, whenever it is determined that no reasonable efforts to reunite are necessary, a permanency planning hearing must be held within 30 days. MCL 712A.19a(2) addresses this requirement.

- **Every 12 months it is required that the court determine that reasonable efforts are being made to finalize the permanency plan whether that be return home or some other plan.** The requirement for a judicial finding of reasonable efforts to finalize the permanency plan also applies to those cases where parents have voluntarily released their rights under the Adoption Code (subsequent to a child protective proceeding), and to cases where the finalization of an adoption placement is delayed beyond 12 months. FIA has agreed to notify the courts of cases where time to a finalized adoption has exceeded 12 months and a new SCAO form (PCA 351) can be used to summarize the results of review hearings on these cases.

- If a child is placed in foster care after being home for 6 months or more, even if the return home was a "trial home visit," new determinations for Title IV-E eligibility must be made. A return to care after the child has been home for 6 months is considered to be a new removal.

11.2 Orders for Reimbursement of the Costs of Care or Services When a Juvenile Is Placed Outside of Home

"An order of disposition placing a juvenile in or committing a juvenile to care outside of the juvenile's home and under state, county juvenile agency, or court supervision shall contain a provision for reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of care or service." MCL 712A.18(2).

"An order directed to a parent or a person other than the juvenile is not effective and binding on the parent or other person unless opportunity for hearing is given by issuance of summons or notice as provided in sections 12 and 13 of [the Juvenile Code] and until a copy of the order, bearing the seal of the court, is served on the parent or other person as provided in section 13 of [the Juvenile Code]." MCL 712A.18(4).

Similarly, in "automatic waiver" proceedings, a judgment entered by the court that places the juvenile on probation and commits the juvenile to FIA must provide for reimbursement to the court by the juvenile or those responsible for the juvenile's support, or both, for the cost of care or service. MCL 769.1(7). An order assessing such cost against a person responsible for the support of the juvenile shall not be binding on the person unless an opportunity for a hearing has been given and until a copy of the order is served on the person, personally or by first-class mail to the person's last-known address. MCR 6.931(F)(1) and MCL 769.1(9).

In *In re Juvenile Commitment Costs,* 240 Mich App 420, 439–42 (2000), the Court of Appeals held that MCL 769.1(9) satisfied due-process requirements. The Court also noted the applicability of MCR 2.612(C)(1)(f), which allows a court to relieve a party of a final judgment "for any reason justifying relief from the operation of the judgment." *In re Juvenile Commitment Costs, supra* at 441. See also *In re Reiswitz,* 236 Mich App 158, 173 (1999), where the Court of Appeals asserted that MCR 2.612(C)(1)(f) applied to delinquency proceedings and provided a parent a possible avenue of relief from a reimbursement order. See, however, MCR 3.901(A).

The State Court Administrative Office's "Guidelines for Court Ordered Reimbursement and Procedures for Reimbursement Program Operations" (1990), pp 12–13, states as follows:

> "**4. Amendment of the Order**
>
> "Changed circumstances may result in a need to amend the order of reimbursement. The affected party(ies) or a representative of the court may request reconsideration of the order. The Motion and Order (JC 15), is used to request opportunity to be heard on changed circumstances.
>
> "The judge should make it clear to the affected parties at disposition that the order can be amended, and by whom. Because the court often discovers financial information after entry of the order of disposition, there must be flexibility for adjustments based on new information. The parent, guardian or custodian can request changes in the order based on changes in income or circumstances. In either case, the court should require completion of a

revised Financial Statement (JC 34), with instructions that the changes be noted. The revised statement should be clearly marked and dated to distinguish it from previous statements.

"The court can include a provision in the original order of reimbursement requiring the parent, guardian or custodian to notify the Court of any increase or decrease within 7 days of occurrence. The Court should also reserve the right to amend the order if the party fails to notify the court.

"**5. Review of the Order**

"The court can, at any time, order a review of the parent, guardian or custodian's compliance with the order of reimbursement. Notice must [be] given for hearing.

"If the court orders reimbursement of the full cost-of-care/service with an interval payment amount, a review should be required prior to the relase of the child from the court's jurisdiction. This review provides an opportunity for the Judge to look at compliance with the order, payment history, arrearage, enforcement efforts needed and other facors. The court can then determine whether to:

1. Forgive the entire debt

2. Forgive any part of the debt

3. Continue the original/last order as entered

4. Seek voluntary or involuntary wage assignment

5. Amend an existing order." See *In re Juvenile Commitment Costs, supra* at 442, n 6.

A. Amount of Reimbursement

A reimbursement order "shall be reasonable, taking into account both the income and resources of the juvenile, parent, guardian, or custodian." MCL 712A.18(2). The amount may be based upon the guidelines and model schedule created by the State Court Administrator. MCL 712A.18(2) and (6).

If the juvenile is receiving an adoption support subsidy pursuant to MCL 400.115j, the amount of reimbursement ordered shall not exceed the amount of the support subsidy. MCL 712A.18(2).

Similarly, in "automatic waiver" proceedings, "[t]he amount of reimbursement ordered shall be reasonable, taking into account both the income and resources of the juvenile and those responsible for the juvenile's support." The amount may be based upon the guidelines and model schedule prepared by the State Court Administrator under MCL 712A.18(6). MCL 769.1(7).

B. Duration of Reimbursement Order

"The reimbursement provision applies during the entire period the juvenile remains in care outside of the juvenile's own home and under state, county juvenile agency, or court supervision, unless the juvenile is in the permanent custody of the court." MCL 712A.18(2). Similarly, in "automatic waiver" proceedings, '[t]he reimbursement provision applies during the entire period the juvenile remains in care outside the juvenile's own home and under court supervision." MCL 769.1(7).

These provisions do not establish an unqualified mandate that a parent reimburse the state for the entire cost it incurs in caring for the parent's child. The amount need only be reasonable, considering the criteria enumerated in the statute. *In re Brzezinski,* 454 Mich 889 (1997) (reversing by summary disposition the Court of Appeals and adopting the dissent by Griffin, PJ, at 214 Mich App 652, 675 (1995)). However, because the reimbursement order is included in an order of disposition or commitment to the FIA, the court must necessarily order reimbursement before it is aware of the total amount of expenses that the state will incur in caring for the child. Thus, the provisions of MCL 712A.18(2) and MCL 769.1(7) that state that the "reimbursement provision applies during the entire period the juvenile remains in care outside of the juvenile's own home" provide a mechanism by which the court may determine the total amount of the parent's reimbursement obligation. *Id.* at 677. Moreover, MCL 712A.18(2) and MCL 769.1(7) provide that collection of the balance due on reimbursement orders may be made after the juvenile is released or discharged from care.

In *In re Reiswitz,* 236 Mich App 158, 163 (1999), the Court of Appeals held that where the court entered a reimbursement order while it had jurisdiction over a juvenile and parent, the parent could not avoid paying reimbursement after the trial court's jurisdiction over the juvenile and parent had terminated. Approving the use of installment payments, the Court of Appeals concluded that the "juvenile court" may order and collect reimbursement both before and after the juvenile reaches "the age of majority." *Id.* at 167–69. A court that orders reimbursement under MCL 712A.18(2) while it has jurisdiction over a juvenile and parent may enforce that order through its contempt powers after such jurisdiction has terminated. *Id.* at 172, citing *Wasson v Wasson,* 52 Mich App 91 (1974) (child support arrearages may be collected through use of contempt power following termination of jurisdiction) and MCL 712A.30 (restitution orders remain in effect until satisfied in full). The Court of Appeals also rejected

the parent's argument that the order was unreasonable under MCL 712A.18(2). The order was reasonable even though it required installment payments by the parent after the juvenile reached adulthood. *Id.* at 174–76.

*The statutes are MCL 722.3(1) (parents' support obligations), 722.3a (post-majority child support, repealed by 2001 PA 110, effective September 1, 2001), 722.4(2) (emancipation by operation of law), and 722.52(1)–(2) (Age of Majority Act).

The amount of reimbursement ordered may include costs of care or service incurred after the juvenile reaches age 18. In *In re Juvenile Commitment Costs,* 240 Mich App 420 (2000), the juvenile pled guilty to unarmed robbery in "automatic waiver" proceedings and was committed to FIA. The juvenile's parents were ordered to pay the expenses of the juvenile's confinement pursuant to MCL 769.1(7). The Circuit Court terminated the parents' reimbursement obligation after the juvenile reached age 18, but the Court of Appeals reversed. The Court of Appeals first noted that although the term "juvenile" is not defined in MCL 769.1(7) by reference to age, it appears to refer to a person who remains under court supervision since MCL 769.1b provides for commitment review hearings before a juvenile's 19th or 21st birthdays. *Id.* at 430–31. The Court also read MCL 769.1(7) *in pari materia* with several provisions of the Juvenile Code, including MCL 712A.2a, which allows for continuing jurisdiction over juveniles until age 19 or 21. *Id.* at 431–37. The Circuit Court mistakenly relied on statutes addressing a minor's right to parental support until he or she reaches the "age of majority," as MCL 769.1(7) deals with a county's and the state's rights to recover the costs of rehabilitating a parent's child. *Id.* at 437–39. The Court of Appeals concluded that the term "juvenile" does not refer only to a person under age 18. *Id.* at 437.

C. Collection and Disbursement of Amounts Collected

MCL 712A.18(2) states as follows:

> "The court shall provide for the collection of all amounts ordered to be reimbursed and the money collected shall be accounted for and reported to the county board of commissioners. Collections to cover delinquent accounts or to pay the balance due on reimbursement orders may be made after a juvenile is released or discharged from care outside the juvenile's own home and under state, county juvenile agency, or court supervision. Twenty-five percent of all amounts collected under an order entered under this subsection shall be credited to the appropriate fund of the county to offset the administrative cost of collections. The balance of all amounts collected pursuant to an order entered under this subsection shall be divided in the same ratio in which the county, state, and federal government participate in the cost of care outside the juvenile's own home and under state, county juvenile agency, or court supervision."

MCL 769.1(7) contains substantially similar provisions.

The court may also collect benefits paid by the government of the United States to the parent of a juvenile for the cost of care of a court or public ward. MCL 712A.18(2) and MCL 769.1(7).

"Money collected for juveniles placed by the court with or committed to the Family Independence Agency or a county juvenile agency shall be accounted for and reported on an individual juvenile basis." MCL 712A.18(2). MCL 769.1(7) contains a substantially similar provision.

D. Delinquent Accounts

MCL 712A.18(2) states as follows:

> "In cases of delinquent accounts, the court may also enter an order to intercept state or federal tax refunds of a juvenile, parent, guardian, or custodian and initiate the necessary offset proceedings in order to recover the cost of care or service. The court shall send to the person who is the subject of the intercept order advance written notice of the proposed offset. The notice shall include notice of the opportunity to contest the offset on the grounds that the intercept is not proper because of a mistake of fact concerning the amount of the delinquency or the identity of the person subject to the order. The court shall provide for the prompt reimbursement of an amount withheld in error or an amount found to exceed the delinquent amount."*

*See SCAO Forms JC 60, 61, and 62.

MCL 769.1(7) contains substantially similar provisions.

E. Copy of Reimbursement Order to Department of Treasury

MCL 712A.28(3) requires a court that enters a reimbursement order under MCL 712A.18(2) to mail a copy of the order to the Michigan Department of Treasury. MCL 712A.28(3) states:

> "If the court issues an order in respect to payments by a parent under [MCL 712A.18(2)], a copy shall be mailed to the department of treasury. Action taken against parents or adults shall not be released for publicity unless the parents or adults are found guilty of contempt of court. The court shall furnish the family independence agency and a county juvenile agency with reports of the administration of the court in a form recommended by the [Michigan Probate Judges Association]. Copies of these reports shall, upon request, be made available to other state departments by the family independence agency."

11.3 Orders for Reimbursement of the Costs of Care When a Juvenile Is Placed on Probation in the Juvenile's Own Home

*See Section 11.2, above. Note that reimbursement for costs when the juvenile is placed in the home is discretionary, not mandatory, as when the juvenile is placed outside the home.

An order of disposition placing a juvenile on probation in the juvenile's own home may contain a provision for the reimbursement by the juvenile, parent, guardian, or custodian to the court for the cost of service. If an order is entered under this subsection, an amount due shall be determined and treated in the same manner provided for an order under MCL 712A.18(2), dealing with reimbursement for cost of care outside the juvenile's own home. MCL 712A.18(3).*

The guidelines and model schedule developed by the State Court Administrative Office pursuant to MCL 712A.18(6) may be used for determining the amount of reimbursement.

11.4 Using Governmental Benefits to Reimburse the Costs of Care

MCL 712A.18(1)(e) states as follows:

> "Except for commitment to the family independence agency or a county juvenile agency, an order of commitment under this subdivision to a state institution or agency described in [MCL 803.301 et seq.] . . . , the court shall name the superintendent of the institution to which the juvenile is committed as a special guardian to receive benefits due the juvenile from the government of the United States. An order of commitment under this subdivision to the family independence agency or a county juvenile agency shall name that agency as a special guardian to receive those benefits. The benefits received by the special guardian shall be used to the extent necessary to pay for the portions of the cost of care in the institution or facility that the parent or parents are found unable to pay."

11.5 Using Bail Money to Pay Reimbursement Orders

If a disposition imposes reimbursement or costs, the bail money posted by a juvenile's parent must first be applied to the amount of reimbursement and costs, and the balance, if any, returned. MCR 3.935(F)(4)(a).

11.6 Using Wage Assignments to Pay Reimbursement Orders

MCL 712A.18b provides that whenever the court enters a reimbursement order and the parent or other adult legally responsible for the care of the child fails or refuses to obey and perform the order, and has been found guilty of contempt of court for such failure or refusal, the court making the order may order* an assignment to the county or state of the salary, wages, or other income of the person responsible for the care of the child, which assignment shall continue until the support is paid in full. The order of assignment shall be effective one week after service upon the employer of a true copy of the order by personal service or by registered or certified mail.

*See SCAO Form JC 39.

Thereafter the employer shall withhold from the earnings due to the employee the amount specified in the order of assignment for transmittal to the county or state until notified by the court that the support arrearage is paid in full.* An employer shall not use the assignment as a basis, in whole or in part, for the discharge of the employee or for any other disciplinary action against an employee. Compliance by an employer with an order of assignment operates as a discharge of the employer's liability to the employee as to that portion of the employee's earnings so affected. MCL 712A.18b.

*See SCAO Form JC 58.

11.7 Orders for Reimbursement of Attorney Fees

If the court appoints an attorney to represent a party, the court may enter an order requiring the party or the person responsible for the support of the party to reimburse the court for attorney fees. MCR 3.915(E). See also MCL 712A.18(5), which allows the court to order a parent, guardian, or custodian who was appointed counsel to reimburse the court for attorney fees. MCL 712A.17c(8) states as follows:

> "If an attorney or lawyer-guardian ad litem is appointed for a party under this act, after a determination of ability to pay the court may enter an order assessing attorney costs against the party or the person responsible for that party's support, or against money allocated from marriage license fees for family counseling services under . . . MCL 551.103. An order assessing attorney costs may be enforced through contempt proceedings."

See also MCR 3.916(D) (reimbursement for costs of guardian ad litem may also be ordered).

Similarly, in "automatic waiver" proceedings, if the court appoints an attorney to represent a juvenile, the court may require the juvenile or person responsible for the juvenile's support, or both, to reimburse the court for attorney fees. MCL 769.1(8). See also *People v Nowicki,* 213 Mich App 383, 385–88 (1995), where the Court of Appeals held that an order for

reimbursement of fees for a court-appointed attorney was not a part of the judgment of sentence and thus did not represent "costs," which may only be imposed pursuant to statutory authority. The Court of Appeals found that a trial court has the independent authority to order a defendant to defray the public cost of representation.